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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Jong-Kwon Kim et al.
SERIAL NO.: 10/781,037 EXAMINER: Leslie C. Pascal
FILED: February 18, 2004 ART UNIT: 2613

FOR: **BIDIRECTIONAL WAVELENGTH DIVISION MULTIPLEXING
SELF-HEALING OPTICAL RING NETWORK**

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW ERRONEOUS TERMINAL DISCLAIMER

Dear Sir:

On February 26, 2007, Applicant filed a Terminal Disclaimer under 37 C.F.R.1.321 to overcome an obviousness-type double patenting rejection in view of U.S. Patent 7,133,609 to Kim, which is commonly owned and assigned to the assignee of the present application.


However, Applicant, inadvertently and through no deceptive intent, filed the Terminal disclaimer on February 26, 2007 listing U.S. Patent 6,519,060 to Liu as the patent to which the present application is tied to via Terminal Disclaimer.

Accordingly, Applicant respectfully requests withdrawal of the previously-filed Terminal Disclaimer and has attached a new Terminal Disclaimer for entry into the record.

Applicant respectfully requests that with regard to any fees due and owed regarding this petition and the accompanying Terminal Disclaimer, please charge deposit account number 502-470.

Respectfully submitted,

Date: July 23, 2007

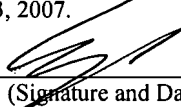

By: Steve S. Cha
Attorney for Applicant
Registration No. 44,069

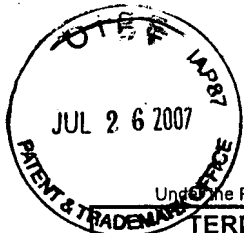
Steve S. Cha, Reg. No. 44,069
Cha & Reiter
210 Route 4 East, #103
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Certificate of Mailing Under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to COMMISSIONER FOR PATENTS, Mail Stop Petitions, P.O. Box 1450, ALEXANDRIA, VA. 20231-1450 on July 23, 2007.

Steve Cha, Reg. No. 44,069
(Name of Registered Rep.)


(Signature and Date)



Previous-filed Terminal Disclaimer

FEB 26 2007

PTO/SB/26 (07-06)

Approved for use through 09/30/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)
5000-1-426

In re Application of: Jong-Kwon Kim et al.

Application No.: 10/781,037

Filed: February 18, 2004

For: BI-DIRECTIONAL WAVELENGTH DIVISION MULTIPLEXING SELF-HEALING OPTICAL RING NETWORK

The owner*, Samsung Electronics Co. LTD., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term **prior patent** No. 6,519,060 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said **prior patent** is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the **prior patent** are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior patent**, "as the term of said **prior patent** is presently shortened by any terminal disclaimer," in the event that said **prior patent** later:

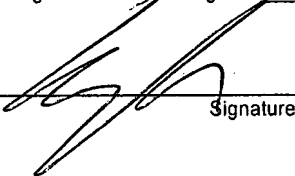
- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

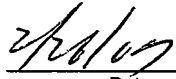
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 44,069



Signature

Steve Cha
Typed or printed name



Date

201-226-9245
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

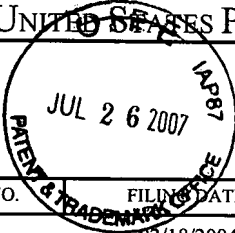
This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,037	02/18/2004	Jong-Kwon Kim	5000-1-426	2814

33942 7590 11/29/2006

CHA & REITER, LLC
210 ROUTE 4 EAST STE 103
PARAMUS, NJ 07652

EXAMINER

PASCAL, LESLIE C

ART UNIT PAPER NUMBER

2613

DATE MAILED: 11/29/2006

OFFICE ACTION Due: 2/28/07

Please find below and/or attached an Office communication concerning this application or proceeding.

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CHA & REITER, LLC

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-6 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1,2,5,7,8,10 of U.S. Patent No. 7133609. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the patent does not specifically teach that the filter means are interleavers, it is well known to use interleavers as filtering means depending on which wavelengths are to be bypassed. it would have been obvious to use an interleaver in the system of the patent if the signals that a particular ADM were not using/not using were interleaved signals.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Pascal whose telephone number is 571-272-3032. The examiner can normally be reached on Monday- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571-272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.